

RESOLUTION

CASE NO. ZA-0006-2012. WILLIAMSBURG POTTERY –

PROFFER VIOLATION APPEAL (LIGHTS)

WHEREAS, Mr. Vernon Geddy and Mr. Thomas K. Norment, Jr., on behalf of the property owners (the “Appellant”, have appealed the Zoning Administrator’s decision of the accepted proffers for the Williamsburg Pottery development to the Board of Supervisors; and

WHEREAS, the Board of Supervisors at its meetings on October 23, 2012, and November 27, 2012, held a public hearing and considered the statements made by the public and also reviewed and considered the materials and testimony offered by the Zoning Administrator and the Appellant; and

WHEREAS, the Board of Supervisors is of the opinion that the decision of the Zoning Administrator is correct and that the Appellant’s appeal should be denied.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby uphold the Zoning Administrator’s decision that the LED lighting affixed to the buildings and entrance features and illuminated at the Williamsburg Pottery located at 6992 Richmond Road (the “Property”) is in violation of the recorded proffers and in consideration of such decision, the Board of Supervisors makes the following specific findings of fact:

1. Section 15.2-2299 of the *Code of Virginia*, 1950, as amended (the “Virginia Code”), authorizes the Zoning Administrator to administer and enforce proffers attached to a rezoning. Sections 15.2-2301 of the Virginia Code directs the Board of Supervisors to consider any appeal from a decision rendered pursuant to Section 15.2-2299 of the Virginia Code; accordingly, the Board of Supervisors has jurisdiction to hear this appeal.
2. The Board of Supervisors must give deference to the Zoning Administrator’s determination.
3. The Board of Supervisors approved Rezoning Case No. Z-0002-2010 by resolution on March 22, 2011, rezoning 18.78 acres from M-I, Limited Business/Industrial, to M-1, Limited Business/Industrial, and accepted amended voluntary proffers.
4. Proffer No. 4 states that “all external lights on the Property shall be recessed fixtures with no globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture. No glare defined as 0.1 footcandle or higher shall extend outside the property lines of the Property unless otherwise approved by the Planning Director. Owner shall submit a lighting plan to the Director of Planning for review and approval for consistency with the Proffer prior to final site plan approval.”

5. The Board of Supervisors finds that the LED lighting on the building façade and entrance feature installed and illuminated on the Property is in violation of Proffer No. 4.
6. A solution to shield the LED lighting as described in Proffer No. 4 and timeline to abate the proffer violation shall be approved by the Planning Director and Zoning Administrator within 60 days of approval of this resolution or the LED lighting shall be permanently disabled or removed from the building facade and entrance feature within 90 days of approval of this resolution.
7. The LED lighting shall remain off until a solution and timeline to abate the proffer violation is approve as prescribed in Condition No. 6.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2012.

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